

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

MAR - 8 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the Matter of |) | |
| |) | |
| Reallocation of the 216-220 MHz, |) | ET Docket No. 00-221 |
| 1390-1395 MHz, 1427-1429 MHz, |) | RM-9267 |
| 1429-1432 MHz, 1432-1435 MHz, |) | RM-9692 |
| 1670-1675 MHz, and 2385-2390 MHz |) | RM-9797 |
| Government Transfer Bands |) | RM-9854 |

**COMMENTS OF MILLENNIUM NETWORKS, Inc.
ON NOTICE OF PROPOSED RULEMAKING**

I. Introduction

In its Notice of Proposed Rulemaking ("NPRM"), ET Docket No. 00-221, the Federal Communications Commission (The "Commission") *inter alia* solicits comments on Regionet's proposal to allocate the 218-219 MHz band to Paging and Radiotelephone Services for use to provide two way paging services. Millennium Network, Inc. ("Millennium") opposes Regionet's petition¹ to reallocate the 218-219 MHz band to Paging and Radiotelephone Service, but supports the Commission's proposal to elevate telemetry to primary status.

The Commission also requests comments on how to accommodate additional services, how to assign licenses in this spectrum, and on the best way to continue the viability of incumbent, non-Government services in the band; as well as, on the issue of whether any of the existing secondary services operating in this spectrum should be elevated to primary status.

¹ See Regionet, *Petition for Rule Making*, RM-9692 (filed Jun. 10, 1999).

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II. Millennium's Wireless Internet Network

Millennium is developing a Wireless Internet Network utilizing the 218- 219 MHz spectrum. The network is in the final system design phase and will offer standard applications such as e-mail, instant messaging, web browsing, and allow for ad insertion. Implementation of the design is expected to begin during the 4th quarter of 2001.

The network will provide a range of wireless electronic communications services to a population of subscribers over a small geographic area, nominally a circular area with a radius of 5 (TBR) miles. Subscriber Terminals ("ST") are used by the population of subscribers for receipt and transmission of digital services. The ST consists of a Personal Digital Assistant ("PDA") coupled with a RF modem allowing access to a site-centric network that is tied to the Internet.

The network will support Wireless Access Protocol (WAP)-based web browsing functionality, instant messaging/e-mail access, receipt of broadcast information - both of general interest to end-users and tailored to subgroups of end-users via profiling technology for advertising and controlled access to specialized web sites with focused content.

The system will include the capability to process several hundred cells simultaneously. Overall technical management of the system, and management of the media content transmitted and broadcast by the system, will be performed by a single Network Operations Center ("NOC"). Each Cell Station ("CS") will connect directly to the NOC. The interconnection will be by either direct leased connections or Virtual Private

Networks ("VPNs") support across the Internet. Each CS will also provide a local entry point into the Internet for its controlled population of STs.

III. The Commission Should Consider The Public Interest in Reallocating the 218-219 MHz Band

In the *Spectrum Policy Statement*², the Commission recognized that spectrum is a valuable and finite public resource, which should be allocated and assigned in a manner that will provide the greatest possible benefit to the American public. At the same time, it is important to encourage the development and deployment of new, efficient technologies that will increase the amount of information that can be transmitted in a given amount of bandwidth.³

In the Commission's Introduction to the NPRM, it was evident that the transfer of these bands to non-Governmental use should enable the development of new technologies and services and should have a positive economic impact on small businesses.⁴ Millennium supports use of the 218-219 MHz band that advances these goals. At present, however, there is sufficient bandwidth already available for two-way paging. Millennium believes that the spectrum under consideration for reallocation, instead, should be used for innovative new services, and is itself developing applications utilizing this spectrum. Millennium has spent several million dollars developing the

² *Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium*, Policy Statement, 14 FCC Rc'd 19,868 (1999).

³ Id at ¶ 7.

⁴ 66 Fed. Reg. 7443 (2001) (to be codified at 47 C.F.R. parts 2 and 90) (proposed Nov. 20, 2000).

Wireless Network described above. The Commission should be aware that numerous other companies have spent millions of dollars pursuing applications to utilize this spectrum. By allowing two-way paging to consume the 216 - 220 MHz spectrum, the Commission will effectively eliminate small businesses that have focused resources on utilizing the spectrum for other services.

The Millennium network is in the final system design phase and will offer standard applications such as e-mail, instant messaging, web browsing and allow for ad insertion. Providing the 218 - 219 MHz spectrum for innovative uses will increase the opportunity for small businesses, including Millennium, to create viable wireless products and services.

The Regionet proposal to relocate the 216 -217 MHz and 218 - 219 MHz bands to Paging and Radiotelephone Service reduces the ability of small businesses to develop new wireless technology. Millennium believes that there already exists ample spectrum for two-way paging. Allowing Regionet to utilize both the 216 - 217 MHz and 218 - 219 MHz bands would stifle technological development, as well as delaying the introduction of innovative services.

IV. The Commission Should Elevate Telemetry Service To Primary Status

Millennium urges the Commission to elevate telemetry to primary status.

Elevating telemetry to primary status within the 216 - 220 MHz allows incumbent services to expand their present service offerings, thus stimulating growth and expansion throughout the industry.

V. Suggestions for further assignment of licenses in the 216 - 220 MHz spectrum

License distribution by means of competitive public bidding in the Metropolitan Statistical Areas (MSA) has proven to be effective. However, for a wireless network such as Millennium's, the use of MSA may restrict service offerings. While the MSA distribution method was initiated to stimulate competition, it has inadvertently placed financial and time-to-market barriers on technology entrepreneurs that reduce their ability to assemble service footprints adequate to amortize development costs. We believe that the Commission should consider adopting a procedure which would grant licenses for a larger geographical area.

Millennium also believes that the FCC should allow present license holders to acquire additional licenses within the spectrum prior to a public offering. If adopted, this procedure would significantly reduce the time-to-market for emerging technologies utilizing the spectrum.

VI. Protection of Current License Holders

Millennium believes that the Commission should proceed with plans to auction all of the original license areas, including RSAs, defaults, and amnesty licenses, with current service guidelines. If the remaining 218 - 219 MHz licenses are not auctioned, current license holders will be unable to develop successful service offerings because of the limited markets available.

Millennium supports efforts by the Commission to remove unnecessary regulatory barriers to the development of more robust secondary markets in the radio spectrum usage rights.⁵ The Commission's efforts in this behalf must be limited by the practical questions raised by the issues associated with the Licensee's responsibility for compliance with Commission rules⁶

VII. Conclusion

For the reasons set forth in this Comment, Millennium Networks, Inc. respectfully submits that the Commission deny the petition of Regionet to reallocate the 218-219 MHz band to Paging and Radiotelephone Service, and should concurrently, elevate telemetry to primary status in the 218-219 MHz band.

⁵ See Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, WT Docket No. 00-230.

⁶ Id.at ¶ 27 et. seq.

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Respectfully submitted,

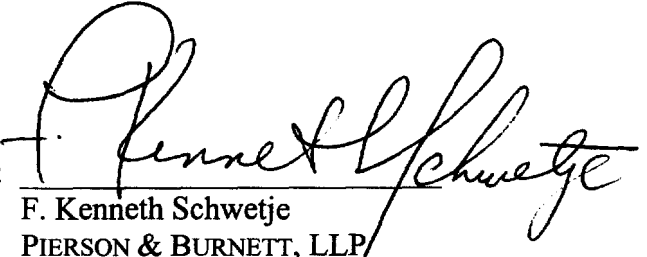
MILLENNIUM NETWORKS

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Certificate of Service

I, F. Kenneth Schwetje, do hereby certify that on this 8th day of March 2001, a copy of the foregoing "Comments of Millennium Networks, Inc. on Notice of Proposed Rulemaking" Was mailed US Postal Service, First Class to the following:

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